

### **REMARKS**

Favorable reconsideration of this application in light of the preceding amendments and the following remarks is respectfully requested.

Claims 1-12 having previously been canceled, claims 20-22 being canceled and no additional claims having been added by the amendments to the claims reflected above, the Applicant respectfully submits that claims 13-19, 23 and 24 remain properly under consideration in this application.

The Applicant notes with appreciation the Examiner's acknowledgement that certified copies of all priority documents have been received by the USPTO from the International Bureau. Action Summary at 12.

The Applicant also notes with appreciation the Examiner's consideration of the IDS as reflected in the return of the initialed versions of the PTO-1449 forms that were filed with the IDS. Action at 2.

#### **Applicant's Previous Election**

In response to the previous Restriction Requirement, the Applicant elected Group I including claims 13-19, 23 and 24, to the extent that these claims are drawn to compounds of the formula I and the corresponding pharmaceutical compositions in which the compound may be represented by formulae illustrated in claim 19 as compounds I-III. In light of this election, the Applicant respectfully submits that claims 13-19, 23 and 24 are ready for examination.

**Objections to the Claims**

Claims 13-19, 23 and 24 stand objected to as containing non-elected subject matter. Action at 3. The Applicant respectfully contends that the amendments reflected above to claims 13-19, 23 and 24 are both intended to and are sufficient to bring the scope of these claims into compliance with the previous election.

The Applicant notes that claim 13 has been amended to incorporate the three compounds I, II and III from previous claim 19. In an effort to clarify the designation of the various compounds within amended claim 13, the Applicant has designated with a "prime" each of the compounds now incorporated from claim 19 into claim 13, *i.e.*, I', II' and III'. Similarly, the formulas representing the combination of a compound according to the basic formulas I', II' and III' with one or more cations is designated with a "double prime," *i.e.*, I'', II'' and III'', to reflect the resulting structure.

The Applicant, therefore, respectfully requests that these objections be reconsidered and withdrawn.

In view of the complexity of the amendments reflected above, particularly with respect to the many chemical formulas utilized in the claims, the Applicant has also attached for the Examiner's convenience a "clean" set of the amended claims that is intended to reflect each of the amendments reflected above.

Claims 1-6, 8-10, 12-19 and 21-24 stand objected to for the use of "P" as a variable in the "formula (1a)" The Applicant respectfully traverses this rejection as moot with regard to canceled claims 1-6, 8-10, 12, 21 and 22. With respect to the remaining claims, the Applicant respectfully maintains that "formula (1a)" does not appear in any of the pending claims and further that "P" is not used as a variable but is used uniformly throughout the claims and illustrated formulas solely to represent the element phosphorus.

The Applicant, therefore, respectfully requests that these objections be reconsidered and withdrawn.

**Rejections Under 35 U.S.C. § 112**

Claim 24 stands rejected under 35 U.S.C. § 112, second paragraph, as vague and indefinite with respect to the term "another pharmaceutical[ly] active substance." The Applicant respectfully submits that the amendments to claim 24 reflected above are sufficient to render the claim sufficiently definite.

The Applicant, therefore, respectfully requests that this rejection be reconsidered and withdrawn.

**CONCLUSION**


In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections have been addressed and overcome, leaving the present application in condition for allowance. A notice to that effect is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, particularly with respect to any remaining issues regarding the Applicant's attempt to conform the scope of the pending claims to the elected Group I and representative compounds I-III of original claim 19, the Examiner is invited to contact the undersigned in order to resolve any remaining issues.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge any underpayment or non-payment of any fees required under 37 C.F.R. §§ 1.16 or 1.17, or credit any overpayment of such fees, to Deposit Account No. 08-0750, including, in particular, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By:  (41,646) for  
Donald J. Daley  
Reg. No. 34,313

P.O. Box 8910  
Reston, VA 20195  
(703) 668-8000

DJD/GPB